

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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UNITED STATES OF AMERICA, : 05 Cr. 210 (TPG)  
- against - :  
**OPINION**  
STEPHEN CLARK, :  
Defendant. :  
----- x -----

On August 22 the court entered an order directing that defendant be permitted 600 minutes per month of telephone calls at the MDC, instead of the standard amount of 300 minutes per month. On September 12 Jennifer Dannels, Esq., staff attorney at the MDC, wrote the court requesting that the August 22 order be reconsidered, because of the failure of defendant to exhaust administrative remedies.

There is indeed a requirement, under the law, to exhaust administrative remedies before applying to a court. However, the administrative remedies outlined in the letter would potentially take so much time as to make them entirely impractical in this case.

Defendant has been denied bail and has been remanded. His trial is now set for January 2006. When defendant made the application to the court leading to the August 22 order, it appeared that there were indeed reasons to depart from the 300 minute limit. The court met with defendant

and his attorney again on October 14. It appears that there are some very pressing health problems with close family members, which would make frequent calls to family members most appropriate. It would further appear that this could require more than 300 minutes per month.

Apparently the August 22 order has not been put into effect. It should be noted that the MDC had no authority to stay the order on its own without permission of the court.

Under all the circumstances, the court will stay the order until October 31 to give time for submission of defendant's application to the Warden. It is requested that the Warden notify the defendant and the court of the decision.

SO ORDERED.

Dated:      New York, New York  
                  October 18, 2005



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THOMAS P. GRIESA  
U.S.D.J.